

# HOUSE BILL 421

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CF SB 991

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By: **Delegate Feldman**

Introduced and read first time: February 1, 2012

Assigned to: Economic Matters

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Committee Report: Favorable

House action: Adopted

Read second time: March 14, 2012

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Workers' Compensation – Death Benefits – Determination of Benefits**

3 FOR the purpose of altering the calculation of workers' compensation death benefits  
4 for a dependent of a deceased covered employee who died due to an occupational  
5 disease; and generally relating to workers' compensation death benefits for  
6 dependents of covered employees.

7 BY repealing and reenacting, with amendments,  
8 Article – Labor and Employment  
9 Section 9–683.3  
10 Annotated Code of Maryland  
11 (2008 Replacement Volume and 2011 Supplement)

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
13 MARYLAND, That the Laws of Maryland read as follows:

14 **Article – Labor and Employment**

15 9–683.3.

16 (a) This section does not apply to a covered employee of a municipal  
17 corporation or a county who is subject to § 9–503 of this title and the dependents of  
18 those covered employees, unless the municipal corporation or county has made an  
19 election under § 9–683.6 of this subtitle.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (b) If there are individuals who were dependent on a deceased covered  
2 employee at the time of death resulting from an accidental personal injury or  
3 occupational disease, the employer or its insurer shall pay death benefits in  
4 accordance with this section.

5 (c) (1) Beginning on the date of death of a deceased covered employee and  
6 continuing for a period of 144 months, the employer or its insurer shall pay death  
7 benefits, as calculated in this section, to the dependents of the deceased covered  
8 employee.

9 (2) Except as otherwise provided in this subsection, death benefits  
10 shall be paid at the rate of two-thirds of the deceased covered employee's average  
11 weekly wage at the time of the occurrence of the accidental personal injury that  
12 caused the death of the covered employee or on the date of [disablement from] **THE**  
13 **LAST INJURIOUS EXPOSURE OF THE COVERED EMPLOYEE TO THE HAZARDS OF**  
14 the occupational disease that caused the death of the covered employee, not to exceed  
15 the State average weekly wage.

16 (3) The average weekly wage of all dependents and the deceased  
17 covered employee's average weekly wage shall be combined to determine the family  
18 income.

19 (4) The deceased covered employee's income shall be divided by the  
20 family income to determine the percent of the family income earned by the deceased  
21 covered employee.

22 (5) The percent of the family income earned by the deceased covered  
23 employee shall be multiplied by the death benefit, as calculated in paragraph (2) of  
24 this subsection, to determine the amount payable, collectively, to all dependents.

25 (6) If the average weekly wage of the deceased covered employee was  
26 less than \$100 at the time of the occurrence of the accidental personal injury that  
27 caused the death of the covered employee or on the date of disablement from the  
28 occupational disease that caused the death of the covered employee, the weekly death  
29 benefit paid under this section shall equal the average weekly wage of the deceased  
30 covered employee up to \$100 per week.

31 (d) (1) Death benefits shall be paid for a minimum of 5 years after the  
32 covered employee's death.

33 (2) Subject to subsections (e) through (i) of this section, provided that a  
34 minimum of 5 years of death benefits has been paid, death benefits shall terminate on  
35 the date that would have been the deceased covered employee's 70th birthday.

36 (e) Notwithstanding the time limitations under subsections (c) and (d) of this  
37 section, if a dependent spouse or dependent child is incapable of self-support because

1 of a mental or physical disability that preexisted the covered employee's death, death  
2 benefits shall continue for the duration of the dependent's disability.

3 (f) If a dependent spouse remarries, death benefits shall terminate 2 years  
4 after the date of remarriage.

5 (g) The employer or its insurer shall continue to make payments to or for the  
6 benefit of a dependent child until the child reaches 18 years of age.

7 (h) The employer or its insurer shall continue to make payments to, or for  
8 the benefit of, a dependent child for up to 5 years after the child reaches 18 years of  
9 age if:

10 (1) the child is attending school on a full-time basis; and

11 (2) the school offers an educational program or a vocational training  
12 program that is accredited or approved by the State Department of Education.

13 (i) (1) Except as provided in paragraph (2) of this subsection, all  
14 dependents who are neither a dependent spouse nor a dependent child shall be  
15 entitled to no more than a total of \$65,000, collectively, as their portion of the total  
16 death benefits payable in accordance with subsection (c) of this section.

17 (2) Beginning on January 1, 2012, the benefit limit under paragraph  
18 (1) of this subsection shall be adjusted annually by the same percent applicable to the  
19 adjustment of the State average weekly wage.

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
21 October 1, 2012.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.